
HOUSE BILL 1205

State of Washington 60th Legislature 2007 Regular Session

By Representatives Chase, Conway, Kenney, Dickerson, Haigh, Moeller
and Schual-Berke

Read first time 01/15/2007. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to unsolicited direct mail marketing; adding a new
2 chapter to Title 19 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Attorney general" means the office of the attorney general.

7 (2) "Consumer" means an individual residing in this state who is or
8 may be required to pay for or to exchange consideration for goods and
9 services offered through direct mail marketing.

10 (3) "Direct mail marketer" means any person who, for financial
11 profit or commercial purposes in connection with direct mail marketing,
12 mails solicitations for the sale of goods or services to a consumer
13 when the consumer is in this state. It includes any person who
14 directly controls or supervises the conduct of a direct mail marketer.
15 For the purposes of this subsection, "commercial purposes" means the
16 sale or offer for sale of goods or services.

17 (4) "Direct mail marketing" means any mailing which contains
18 solicitations for the sale of goods or services and is directed by
19 personal delivery to a consumer at their residence within this state.

1 (5) "Doing business in this state" means mailing or causing to be
2 mailed any direct mail marketing solicitation delivered to a residence
3 by means of personal delivery (a) from a location in this state; or (b)
4 from a location outside of this state to consumers residing in this
5 state.

6 (6) "Goods and services" means any goods and services, and includes
7 any real property or any tangible personal property or services of any
8 kind.

9 (7) "Person" means any natural person, association, partnership,
10 firm, limited liability company, corporation and its affiliates or
11 subsidiaries, or other business entity.

12 (8) "Unsolicited direct mail marketing" means any direct mail
13 marketing mailing other than a mailing:

14 (a) In response to an express written or verbal request of the
15 consumer;

16 (b) In connection with an established business relationship, which
17 has not been terminated by either party; or

18 (c) To an existing consumer, unless the consumer has expressed to
19 the direct mail marketer that the consumer no longer wishes to receive
20 any more direct marketing mail from that marketer.

21 NEW SECTION. **Sec. 2.** (1) The attorney general shall establish and
22 maintain a do not mail registry. The registry is a list of consumers
23 who do not wish to receive unsolicited direct mail marketing. The
24 attorney general may contract with a private vendor to establish and
25 maintain the registry.

26 (2) No direct mail marketer shall mail or cause to be mailed any
27 unsolicited direct mail marketing to any consumer more than thirty days
28 after the consumer's name and address appears on the then current
29 quarterly do not mail registry made available by the attorney general
30 under subsection (4) of this section.

31 (3) The attorney general shall provide notice to consumers of the
32 establishment of the do not mail registry. Any consumer who wishes to
33 be included in the registry must notify the attorney general. A
34 consumer may notify the attorney general by calling a toll-free number
35 provided by the attorney general, or providing notification in any
36 other manner allowed by the attorney general. A consumer on the

1 registry must be deleted from the registry upon the consumer's written
2 request. The attorney general must update the registry not less than
3 quarterly.

4 (4) The attorney general shall make the registry available to
5 direct mail marketers for a fee. The fee shall be adopted by rule by
6 the attorney general.

7 (5) A person shall not be held liable for violating this section
8 if:

9 (a) The person has obtained a copy of the current do not mail
10 registry and has established and implemented written policies and
11 procedures related to the requirements of this section;

12 (b) The person has trained his or her personnel in the requirements
13 of this section;

14 (c) The person maintains records demonstrating compliance with (a)
15 and (b) of this subsection and the other requirements of this chapter;
16 and

17 (d) Any subsequent unsolicited direct mail marketing is the result
18 of error.

19 (6) The attorney general shall adopt rules to implement this
20 chapter.

21 NEW SECTION. **Sec. 3.** (1) Violations of this chapter are
22 punishable by a fine of two thousand dollars for each violation.

23 (2) The attorney general may bring an action to enforce compliance
24 with this chapter.

25 (3) The remedies and penalties in this section are in addition to
26 any other penalties and remedies available to any person.

27 NEW SECTION. **Sec. 4.** The legislature finds that the practices
28 covered by this chapter are matters vitally affecting the public
29 interest for the purpose of applying the consumer protection act,
30 chapter 19.86 RCW. A violation of this chapter is not reasonable in
31 relation to the development and preservation of business, and is an
32 unfair or deceptive act in trade or commerce and an unfair method of
33 competition for the purpose of applying the consumer protection act,
34 chapter 19.86 RCW.

1 NEW SECTION. **Sec. 5.** The do not mail registry account is created
2 in the custody of the state treasurer. All receipts from the fee for
3 accessing the registry under section 2 of this act must be deposited
4 into the account. Expenditures from the account may be made only for
5 the purposes of this chapter. Only the attorney general or the
6 attorney general's designee may authorize expenditures from the
7 account. The account is subject to allotment procedures under chapter
8 43.88 RCW, but an appropriation is not required for expenditures.

9 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute
10 a new chapter in Title 19 RCW.

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